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10/579,927	05/19/2006	Uwe Steinhardt	3697	3697
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743				
EXAMINER SHARMA, YASHITA				
ART UNIT		PAPER NUMBER		
3774				
MAIL DATE		DELIVERY MODE		
08/29/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/579,927

**Applicant(s)**

STEINHARDT ET AL.

**Examiner**

YASHITA SHARMA

**Art Unit**

3774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 19 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 5/19/2006  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it exceeds 150 words in length. Correction is required. See MPEP § 608.01(b).

***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "additional mass" in claims 18 and 19; and the "clip" in claim 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: the term "modulo" is more appropriately a mathematical term. It appears applicant more correctly intends to claim a "modulus"..

Appropriate correction is required.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: Line 22, the term "modulo" is more appropriately a mathematical term. It appears applicant more correctly intends to claim a "modulus". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 18 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. While the specification recites "additional mass is secured to a part of the ossicle chain...as a function of a desired, predeterminable frequency response...", it is

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unclear as to what applicant intends to encompass with this statement. The disclosure lacks specific examples or explanation as to how the response is determined and how the mass is secured. Applicant's specification is unclear about how the additional mass serves as a function of the frequency response.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 3, 12, 14-16 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Regarding claim 3, applicant is attempting to claim a range within a range with the recitation of "at least one and preferably plurality of recesses." Examiner strongly advises applicant to simply claim "at least one recess". If applicant desires to have a plurality of recesses, then applicant is invited to add a dependent claim with the limitations to plural recesses.
9. Regarding claim 12, the listing of shapes should be rewritten in Markush form.
10. Regarding claim 14, it is unclear as to what feature applicant is attempting to claim. Recitation of "biocompatible plastics, in particular, silicone, or fiber-reinforced materials" fails to positively set forth the material used in fabricating the prosthesis. Is the applicant claiming silicone, fiber-reinforced materials or simply biocompatible plastics?

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11. Regarding claim 15, it is unclear as to what is claimed by "titanium and/or gold and/or tantalum and/or an alloy of these metals." Is the applicant claiming titanium, gold, tantalum or any alloy of these metals? The applicant is advised to rewrite this claim in Markush form.

12. Regarding claim 16, applicant is attempting to claim a range within a range with the recitation of "shape memory (memory effect), in particular, Nitinol." Is the applicant claiming any shape memory alloy or Nitinol?

13. Regarding claim 20, it is unclear as to what is claimed by "active, in particular implantable." Is the applicant claiming any active hearing aid or an implantable one?

14. Claim 17 recites the limitation "the distribution in terms of mass." There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

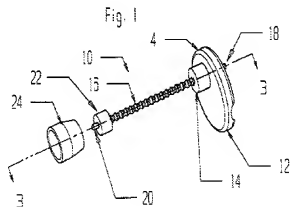
17. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

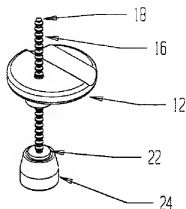
**18. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prescott (6,168,625 B1) in view of Steinhardt et al. (2005/0165481 A1) further in view of Lee (2007/0048708).**

19. Regarding claim 1, Prescott discloses an ossicle prosthesis (10) which replaces or spans at least one member of the human ossicle chain (col. 3, lin. 10-14), in which the ossicle prosthesis on both of its ends, has a first securing element ("head" 12) (Fig. 1) and a second securing element ("cylinder" 24) (Fig. 1) for mechanical connection to a member of the ossicle chain, to the eardrum or to the inner ear, and between the two securing elements has a ball joint ("sleeve" 14 comprising the joint between the first securing element and the ball wherein the ball is an approximately spherical component made of the "enlarged portion" 38 and "frustoconical portion" 40) (Figs. 3 and 4), comprising an elongated shaft (16) (Fig. 1) which includes many balls (Fig. 4) adjoining one another which connect the two securing elements to each other (Fig. 5), of which,

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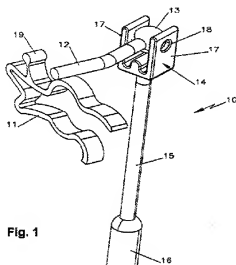
one is the ball in a ball joint (the part of the prosthesis where the ball connects with the first securing element) (Fig. 5); the elongated shaft is displaceable through the gap like space toward or away from the first securing element and through a perforation in the first securing element (col. 4, lin. 53-60) (Fig. 5); except for the ball joint having two struts, which are solidly joined to the first securing element extend parallel or at an angle to one another, and between them enclose a gap like space, in which a spherical ball is pivotably supported in two recesses in the struts, the elongated shaft is displaceable through the gap like space between the two struts of the ball joint, in a direction perpendicular to the struts, and one each of the balls snaps in a snapped-in position between the recesses of the struts, so that a desired length of the shaft modulus adjusts the spacing of the balls from one another, and the part of the shaft protruding through and past the first securing element can be cut to length; and the gap like space between the two struts of the ball joint can be made narrower for fixation of the shaft after the desired length has been adjusted.





However, Steinhardt teaches a similar device comprising a ball joint ("socket" 14 and a spherical "ball" 13 joint) (Fig. 1) having two struts ("side walls" 17) (Fig. 1), which are solidly joined to a first securing element ("second bar" 15) extend parallel to one another (Fig. 1), and between them enclose a gap like space, in which a ball is pivotably supported in two recesses ("openings" 18) (Fig. 1) in the struts, the elongated shaft ("first bar" 12) is displaceable through the gap like space between the two struts of the ball joint, and the ball snaps in a snapped-in position between the recesses of the struts, in a direction perpendicular to the struts, and the gap like space between the two struts of the ball joint can be made narrower for fixation of the shaft after the desired length has been adjusted (this can be achieved with by manually compressing the parallel struts to an angle). Furthermore, Lee teaches a similar elongated shaft ("rod" 21) comprising a plurality of spherical balls ("beads" 22) wherein desired length of the shaft modulo adjusts the spacing of the balls from one another, and the part of the shaft protruding through and past the first securing element can be cut to length (the free

rotation and the ability of the balls to freely move along the rod allows the spacing of the balls to be adjusted, pg. 2, par. 0035) (Fig. 1).



**Fig. 1**

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in Prescott to include the ball joint having two struts, which are solidly joined to the first securing element extend parallel or at an angle to one another, and between them enclose a gap like space, in which a ball is pivotably supported in two recesses in the struts, the elongated shaft is displaceable through the gap like space between the two struts of the ball joint, in a direction perpendicular to the struts, and one each of the balls snaps in a snapped-in position between the recesses of the struts, so that a desired length of the shaft modulo adjusts the spacing of the balls from one another, and the part of the shaft protruding through and past the first securing element can be cut to length; and the gap like space between the two struts of the ball joint can be made narrower for fixation of the shaft after the desired length has been adjusted, as taught and suggested by Steinhardt and

Lee, for the purpose of providing a secured fit of the elongated shaft on the first securing element through the plurality of balls with the help of a ball and socket joint formed with parallel struts having recesses which secure the shaft and still allow for flexible pivoting of the balls in the recess. Furthermore, the balls can be adjusted to be evenly spaced out on the elongated shaft to allow for accurate measurement of the desired length displacement of the shaft between the first and second securing elements.

20. Regarding claim 2, Prescott discloses the claimed invention; except for the two struts of the ball joint are embodied integrally with the first securing element. However, Steinhardt teaches a similar device wherein the two struts ("side walls" 17) (Fig. 1) are embodied integrally with the first securing element ("second bar" 15) (Fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in Prescott to include the two struts of the ball joint embodied integrally with the first securing element, as taught and suggested by Steinhardt, for the purpose of allowing a secured fixture of the struts on the first securing element and to allow a ball and socket joint to be arranged in a way that it secures the elongated shaft as well as allows for some rotation of the balls on the shaft.

21. Regarding claims 3, as best understood, and 4, Prescott discloses the claimed invention; except for each of the two struts of the ball joint has at least one and preferably plurality of recesses having shape of round holes, located side by side, for receiving a ball of the elongated shaft, and two recesses, respectively of the two struts are always diametrically opposite one another. However, Steinhardt teaches a similar

device comprising each of the two struts ("side walls" 17) (Fig. 1) of the ball joint ("socket" 14 and "ball" 13 joint) (Fig. 1) has at least one and preferably plurality of recesses ("openings" 18) having shape of round holes (Fig. 1), located side by side, for receiving a ball of the elongated shaft, and two recesses, respectively of the two struts are always diametrically opposite one another (Fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in Prescott to include each of the two struts of the ball joint has at least one and preferably plurality of recesses having shape of round holes, located side by side, for receiving a ball of the elongated shaft, and two recesses, respectively of the two struts are always diametrically opposite one another, as taught and suggested by Steinhardt, for the purpose of providing recesses that will allow the ball of the ball and socket joint to be placed securely and prevent any unwanted sliding of the ball out of the recesses while still allowing for a degree of pivoting flexibility to the ball. Furthermore, the round hole shape allow for a better fit of the spherical shape of the balls in the recesses.

**22. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prescott (6,168,625 B1) in view of Steinhardt et al. (2005/0165481 A1) further in view of Lee (2007/0048708) further in view of Haberman (2005/0267600 A1).**

23. Regarding claims 5, Prescott discloses the claimed invention; except for each of the two struts of the ball joint has at least one oblong-slot-shaped recess for receiving a ball of the elongated shaft displaceably in the longitudinal direction of the oblong hole, and two recesses of the two struts are always diametrically opposite one another. However, Steinhardt teaches a similar device comprising two struts of the ball

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joint having two recesses, wherein the two recesses are always diametrically opposite one another. Furthermore, Haberman teaches at least one oblong-slot- shaped recess capable for receiving a ball of the elongated shaft displaceably in the longitudinal direction of the oblong hole. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in Prescott to include each of the two struts of the ball joint has at least one oblong-slot-shaped recess for receiving a ball of the elongated shaft displaceably in the longitudinal direction of the oblong hole, and two recesses of the two struts are always diametrically opposite one another, as taught and suggested by Steinhardt and Haberman, for the purpose of using two struts to securely fix the balls in the ball and socket joint wherein the socket is an oblong-slot-shaped recess to allow for flexible sliding of the ball perpendicular to the struts without the ball sliding out of the recess.

**24. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prescott (6,168,625 B1) in view of Steinhardt et al. (2005/0165481 A1) further in view of Lee (2007/0048708).**

25. Regarding claim 6, Prescott discloses the balls (approximate spherical object made of "enlarged portion" 38 and "frustoconical portion" 40) (Fig. 4) of the elongated shaft each have the same outer diameter and are located equidistantly along the axis of the shaft (the enlarged portions all throughout the elongated shaft has the same diameter and the reduced portion 36 which is the space between each of the balls has the same length making each of the balls equidistant from each other on the shaft) (Figs. 3 and 4).

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26. Regarding claims 7 and 8, Prescott discloses the claimed invention; except for the elongated shaft includes a rod element, onto which balls provided with through bores and then fixed on the rod element are slipped. However, Lee teaches a similar device, comprising elongated shaft ("rod" 21) (Fig. 1) including a rod element, onto which balls ("beads" 22) provided with through bores ("cylindrical openings" 22C) (Fig. 1) and then capable of being fixed on the rod element are slipped (pg. 2, par. 0035). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in Prescott to comprise an elongated shaft including a rod element, onto which balls provided with through bores and then fixed on the rod element are slipped, as taught and suggested by Lee, for the purpose of allowing free movement of the balls on the shaft by slipping a rod through the bores of the balls to permit different spacing of the balls on the axis of the shaft to help determine the accurate desired length of the shaft.

**27. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prescott (6,168,625 B1) in view of Steinhardt et al. (2005/0165481 A1) further in view of Lee (2007/0048708) further in view of Schneider et al. (2004/0148025 A1).**

Prescott in view of Lee discloses the claimed invention; except for the balls ("beads" 22) (Fig. 1) are welded to the rod element, preferably by means of laser welding. However, Schneider teaches a similar invention comprising welding two components by using laser welding (pg. 4, par. 0040). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in Prescott to include the balls ("beads" 22) (Fig. 1 of Lee) are welded to the rod element,

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preferably by means of laser welding, as taught and suggested by Schneider, for the purpose of securing the balls on the rod to prevent sliding once the desired spacing has been selected with the help of laser welding to provide a strong fix without causing damage to the surface of the rod.

**28. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prescott (6,168,625 B1) in view of Steinhardt et al. (2005/0165481 A1) further in view of Lee (2007/0048708) further in view of Sirhan et al. (2005/0107869 A1).**

29. Regarding claim 10, Prescott in view of Lee discloses the claimed invention; except for the through bores ("openings" 22C) (Fig. 1 of Lee) of the balls ("beads" 22) (Fig. 1 of Lee) are produced by means of lasers. However, Sirhan teaches a similar invention wherein bores are formed with lasers (pg. 14, par. 00137). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in Prescott to include forming bores of the balls by means of lasers, as taught and suggested by Sirhan, for the purpose of producing through bores at precise locations with smooth surfaces.

**30. Claims 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prescott (6,168,625 B1) in view of Steinhardt et al. (2005/0165481 A1) further in view of Lee (2007/0048708).**

31. Regarding claim 11, Prescott in view of Lee discloses the claimed invention; except for the rod 21 (Fig. 1 of Lee) element is made from a flexible material. However, Prescott discloses an element ("flexible sleeve" 14) (Fig. 1) made from a flexible material ("silicone", col. 3, lin. 52-53). Therefore, it would have been obvious to one of

ordinary skill in the art at the time of invention was made to modify the rod in Prescott in view of Lee to be made from a flexible material, as taught and suggested by Prescott, for the purpose of providing flexibility to elongated shaft to allow it to bend to allow ease of implantation into the ear.

32. Regarding claims 12, as best understood and 13, Prescott discloses the securing elements ("head" 12 and "cylinder" 24) (Fig. 1) are embodied in plate-shaped form embodied for contact with the eardrum ("head" 12 and "footplate" F) (col. 3, lin. 15-17) (Figs. 1 and 6).

33. Regarding claim 14, as best understood, Prescott discloses the prosthesis parts ("flexible sleeve" 14 and "cylinder" 24) (Fig. 1) is made from silicone (col. 3, lin. 52-53 and col. 4, lin. 47-50).

34. Regarding claims 15 and 16, as best understood, Prescott discloses the claimed invention; except for the prosthesis or parts thereof are made from titanium and/or gold and/or tantalum and/or an alloy of these metals; and are made from a material with shape memory alloy, in particular, Nitinol. However, Steinhardt teaches a similar device comprising parts of the prosthesis made from titanium or Nitinol (pg. 2, par. 0015).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in Prescott to include parts of the prosthesis made of titanium or Nitinol, as taught and suggested by Steinhardt, for the purpose of using a biocompatible and sturdy metal material as well as flexible material that allows the prosthesis to change and retain its shape.

35. Regarding claim 17, as broadly claimed, Prescott inherently discloses the distribution in terms of mass of the individual parts of the prosthesis is calculated as a frequency of a desired, predeterminable frequency response of the conduction of sound in the middle ear (the structure of the prosthesis including the two securing elements, "head" 12 and "cylinder" 24, (Fig. 1) and an adjustable elongated shaft 16 inherently encompass a frequency response of the conduction of sound in the middle ear) (Fig. 1).

36. Regarding claims 18 and 19, as best understood, Prescott inherently encompasses the predetermined frequency response of the conduction of sound of the middle ear; except for at least one additional mass is secured to a part of the ossicle chain or the prosthesis by means of a clip. However, Steinhardt teaches a similar device comprising at least one additional mass secured to a part of the ossicle chain or the prosthesis by means of a clip 11 (Fig. 1) (pg. 2, par. 0020). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in Prescott to include at least one additional mass secured to a part of the ossicle chain or the prosthesis by means of a clip, for the purpose of providing fastening means to prevent slippage.

37. Claim 20, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Prescott (6,168,625 B1) in view of (Steinhardt et al. (2005/0165481 A1) further in view of Lee (2007/0048708) further in view of Westerkull (7,074,222 B2). Prescott in view of Steinhardt and Lee teaches the claimed invention; except for the prosthesis is connected to an active vibrating part of a hearing aid. However, Westerkull teaches a similar invention connected to an active vibrating part of a hearing

aid (col. 1, lin. 27-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in Prescott, Steinhardt and Lee to be connected to an active vibrating part of a hearing aid, for the purpose of efficient transmission of sound vibrations.

### ***Conclusion***

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to YASHITA SHARMA whose telephone number is (571)270-5417. The examiner can normally be reached on Monday - Thursday, 8 am to 4 pm EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Isabella can be reached on 571-272-4749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Y. S./

Examiner, Art Unit 3774

/DAVID J ISABELLA/

Supervisory Patent Examiner, Art Unit 3774